

Town of Kinderhook Zoning Board of Appeals Minutes
February 2, 2006

The meeting of the Town of Kinderhook Zoning Board of Appeals was held on February 2, 2006 beginning at 7:00pm at the Kinderhook Town Hall, 4 Church Street, Niverville, New York with Chairperson Sean Egan presiding.

PRESENT

Sean Egan, Chairperson
Jim Waterhouse
Kelly Nicoletta
Margaret Litteken
Thomas Neufeld
Nicole Hoddick

ABSENT

Mary Kramarchyk, Town Liaison

EXCUSED

Marc Gerstman, Town Attorney
Don Kirsch, C.E.O.

Roll call was taken. Jim Waterhouse made a motion to approve the January 5, 2006 minutes. Kelly Nicoletta seconded the motion, all in favor, motion passed unanimously.

CORRESPONDENCE:

- (a) Town of Kinderhook Bid Opening Meeting Minutes of January 6, 2006 (copy on file)
 - (b) Town Board Meeting Minutes of January 9, 2006 (copy on file)
 - (c) Annual Audit/Special Meeting Minutes of January 16, 2006 (copy on file)
 - (d) Town of Kinderhook Offices and Terms (enclosed in packets)
 - (e) Town of Kinderhook Planning Board Workshop Minutes of December 8, 2005 (copy on file)
 - (f) Town of Kinderhook Planning Board Meeting Minutes of December 15, 2005 (copy on file)
 - (g) Town of Kinderhook Planning Board Workshop Minutes of January 12, 2006 (copy on file)
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- (1) Memo dated January 12, 2006 from Kim Pinkowski, Town Clerk, to all Town Officials; RE: Town Board Meeting of January 18, 2006
 - (2) Letter dated January 20, 2006 from Gerard Minot-Scheuermann, Chairman, Planning Board; RE: CVS Site Plan Approval
 - (3) Letter dated January 23, 2006 from Gerard Minot-Scheuermann, Chairman, Planning Board to Sean Egan, ZBA Chairman; RE: CVS
 - (4) Memo dated January 19, 2006 from Kim Pinkowski, Town Clerk to Town Officials; RE: Code Book Changes
 - (5) Memo dated January 29, 2006 from Gerard Minot-Scheuermann, Chairman, Planning Board to Sean Egan, ZBA Chairman; RE: Opinion for National Union Bank of Kinderhook
 - (6) Application for an area variance received January 27, 2006 from Paul Freeman for CVS

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PUBLIC HEARING(S):

Advantage Builder, Inc. – Violation Order

The Chairman opened the Public Hearing. Public Notice was read by the Secretary. Marcel St. Onge was present. He explained that the sign on Pheasant Lane & Rapp Road has a permit. The signs on Rapp Road & County Rte 28, Rapp Road & US Rte 9 and US Rte 9 & County Rte 28 are temporary/directional lawn signs; when sub-division is built the sign will be removed. Kelly clarified the number of signs and locations. Sean asked the Board for any other questions. Jim asked if Mr. St. Onge had photos of the size of the signs. Mr. St. Onge said the small signs are 18" x 30"; "permit" sign 36" x 50".

Discussion occurred regarding total square footage and off premises signs. Sean asked if anyone from the Public would like to speak in favor of over-turning the violation order.

Steve Bean spoke. He asked for clarification of the violation order; Sean explained. Mr. Bean said it is necessary to keep the signs because of the nature/type of business; they advertise and give directions to finding the properties. Sean asked if anyone from the Public would like to speak in favor of upholding the violation. **Dawna Mraz** (600 Route 28) read a letter that she submitted to each Board Member tonight (copy on file).

Concerns: signs falsely advertise a product that cannot be provided; removal of signs will prevent other homeowners from entering into a community and possibly facing issues that homeowners in Quail Run are dealing with; the sign located on Pheasant Lane & Rapp Road is not on Mr. St. Onge's property but the Fraioli's property; there are covenants in Quail Run that limit the size of signs. **Elsworth Pascoe** (32 Pheasant Lane)

Concern: if no permits are being issued to build in Quail Run development then why are there signs advertising something that cannot be delivered? Sean stated that he would like to get one final interpretation of the law from Marc before any decision is made.

Margaret Litteken made a motion to close the public hearing. Jim Waterhouse seconded the motion. With a roll call vote, all in favor, motion passed unanimously. Margaret Litteken made a motion to table making any decision on the violation order until March 2, 2006 when Counsel is present. Jim Waterhouse seconded the motion. With a roll call vote of 4 to 1 motion passed.

NEW BUSINESS:

CVS – Cedar – Kinderhook, LLC – area variance

Paul Freeman of Connor, Curran & Schram and John Joseph representing the developer were present and explained the application. Applicant is looking for an area variance to reduce the number of parking spaces from 90 to 72 (eliminating 18 spaces). After some discussion and verification that the \$100.00 application fee has been paid, Kelly Nicoletta made a motion to accept the application as complete and set for a public hearing on April 6, 2006 at 7:10pm. Jim Waterhouse seconded the motion. With a roll call vote, all in favor, motion passed unanimously.

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OLD BUSINESS:

National Union Bank of Kinderhook – Widewaters Commons – sign variance

Paul Freeman of Connor, Curran & Schram and John Balli, representative, were present. Sean stated that the jurisdiction issue needed to be addressed before we proceed any further. He said that at the last meeting it was our attorney's interpretation that the jurisdiction belongs to the Planning Board; National Union has no standing because the property owner is Widewaters and they would have to seek the variance. Mr. Freeman said that he would get something in writing from Widewaters authorizing them to appear on their behalf and submit this to the Board at the next meeting. He stated that he would also talk with Marc about this. Mr. Freeman submitted photos of the sight for the proposed signs (copy on file).

OTHER:

Kelly Nicoletta made a motion to adjourn. Margaret Litteken seconded the motion, all in favor, motion passed unanimously.

Meeting adjourned at 7:50pm.

Respectfully submitted,

Leigh Ann B. Schermerhorn
Secretary

02/10/06